HOME INVESTMENT PARTNERSHIPS PROGRAM

2012
Notice of Funding Availability

State of California
Governor Edmund G. Brown, Jr.

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Revised June 1, 2012

NOTICE TO ALL POTENTIAL APPLICANTS
RE: NOTICE OF FUNDING AVAILABILITY

HOME INVESTMENT PARTNERSHIPS PROGRAM – $ 30 Million

The Department of Housing and Community Development (hereinafter "HCD" or "Department") is pleased to announce a Notice of Funding Availability (NOFA) for the HOME Investment Partnerships Program (HOME). This NOFA is for rental projects, first-time homebuyer (FTHB) projects, and program activities. A minimum of $30 million is available for this NOFA. Additional funding may become available from disencumbrances of existing contracts. The deadline for receipt of complete applications is August 17, 2012.

If you have any questions, please contact HOME Program staff at (916) 322-0356.

Sincerely,

Guerdon H. Stuckey
Acting Deputy Director

NOTICE OF FUNDING AVAILABILITY (NOFA)
HOME INVESTMENT PARTNERSHIPS (HOME) PROGRAM
JUNE 1, 2012

Anticipated Funding Level: A minimum of $30 million

I. OVERVIEW

A. Changes from the 2011 NOFA

Largely as a result of stakeholder requests, the following changes were made compared to the 2011 NOFA, as follows. Reference is made to the location in the NOFA where the new provision is fully described (unless the item has been deleted). In addition, the new provision is shown in bold type.

For all Applicants

- Advance application description e-mail is requested of all applicants (p. 8).
- Certain congressional changes are effective immediately (p. 8).
- The NOFA stresses the importance of reporting all changes to the activity funded in the relevant monthly or quarterly report (p. 8).
- CHDOs must have their own staff with development experience (p. 9 and 12).
- Proposed HUD HOME regulation changes may become effective this year (p. 9).
- Proposed State HOME regulations changes are expected to become effective this year (p. 9).
- Applications requesting homebuyer new construction activities must include a contingency plan if the homes cannot be sold in 6 months from HOME commitment (p. 9).
- Only the original application is required; a copy is no longer needed (p. 10).
- Exception HUD sales/value limits must be renewed annually (p. 20).
- A new HUD memo allows another option for obtaining acceptable site control without violating NEPA (p. 34).
- Community Need rating points have been reduced from 450 to 250 points (p. 42 for projects, p. 47 for programs).

For Projects

- The amount of funds available to augment the funding amounts for rental new construction projects has been reduced to $2 million (p. 6 and 24).
- Clarification that rental projects on two sites must be under common ownership, financing, and management (p. 21).
- No one entity may be the direct or indirect beneficiary of more than $5 million of awards (p. 22).
- The maximum application limit per project has been reduced (p. 22).

- Applicants proposing the use of Low Income Housing Tax Credits must apply to the Tax Credit Allocation Committee for the same unit mix proposed in the HOME application (p. 31).
- Changes have been made in Project Feasibility and State Objective rating factors (p. 42 and 44).
- Although credit is still allowed to offset negative performance points, the methodology has been simplified (p. 45).

For Program Activities

- FTHB Infill New Construction is only eligible if the application contains information and documentation showing that grant sources or below market rate land already owned by the developer is available to reduce costs down to the appraised value (p. 7).
- CHDOs may apply for Homebuyer with Rehabilitation activity (p. 17).
- A limited amount of HOME funds may be used as grants for rehabilitation costs (p. 19).
- There is now a minimum program application amount of $500,000 (p. 24).
- The State will no longer provide supplemental Administration funds for TBRA activities (p. 27).
- Expenditure deadlines will be extended only if there is evidence the delays were beyond the control of the borrower and/or State Recipient/CHDO or the Department was responsible for the delay (p.30).
- The $10,000 rehabilitation limit per unit has been removed (regulation change only; not in NOFA).

B. The application is due August 17, 2012. The application materials for all activities are available at the state HOME website at www.hcd.ca.gov/fa/home/NOFA.htlm. Please review these documents carefully before submitting an application.

In the event the proposed State HOME Regulations do not become effective at the time of scoring/evaluating applicants submitted in response to this NOFA, then the Department reserves the right to use the existing State HOME Regulations for scoring, or if the proposed regulations are expected to become effective prior to the Department's internal deadline to make awards, to use the proposed new regulations. Applicants and other interested parties are encouraged to attend one of the upcoming training workshops scheduled in June (please see the schedule at the end of this NOFA). These workshops will cover HOME requirements and information needed to submit a successful application.

HOME funds are available to eligible local governments (State Recipients) and nonprofit organizations certified with the Department as Community Housing Development Organizations (CHDOs).

Per Section 8212.1 (a), funding made available by this NOFA will be allocated into separate allocations as follows:

- 40 percent for program activities
- 55 percent for rental projects
- 5percent for first-time homebuyer (FTHB) projects

Per State HOME Regulation Section 8213 (c), in the event there are insufficient funds to fund an applicant's whole program, the applicant may be offered the amount of funds available, provided it is sufficient to complete a portion of the application which, if evaluated separately, would have been awarded funds. If the amount of funds available is not sufficient, the available funds may be allocated to feasible applications in other allocations.

If there is less demand for any of the allocations relative to the minimum amounts available, the remaining funds may be: (i) transferred to another allocation; (ii) made available under a subsequent NOFA; or (iii) a combination of both (i) and (ii). Per the State HOME Regulations, if there is less demand for programs than an amount equal to 40 percent of the total funding made available by this NOFA, some portion of funds would be made available to unfunded program applicants on an over-the-counter (OTC) basis beginning in February 2013. In the unlikely event that this occurs, a separate announcement will be made at that time.

C. Allocation of Funds

In addition to the allocation requirements described in Sections A and B above, the total amount made available under both NOFAs will be allocated pursuant to the state regulations as follows:

- Per Section 92.300(a) (1) of the HOME Final Rule, a minimum of fifteen percent (15 percent) will be reserved for Department-certified CHDOs.
- Per Section 92.201(b) (1) of the HOME Final Rule, a minimum of fifty percent (50 percent) will be reserved for rural areas.

In addition, **$2 million** of the funds available for rental new construction projects will be made available to augment the funding amounts for rental new construction projects with Deep Targeting. See Section X of the NOFA for more information.

D. Eligible Activities

HOME funds may be used for the following activities.

Rental Projects

- New Construction with or without acquisition
- Rental Rehabilitation with or without acquisition

FTHB Projects

- New construction or acquisition/rehabilitation/conversion to develop homes on a specified site or sites to be sold to first-time homebuyers. The entire HOME investment must be converted to mortgage assistance for the first-time homebuyers when the units are sold to eligible homebuyers.

Program Activities

- FTHB – Acquisition only down payment assistance

- FTHB – Acquisition with Rehabilitation

- FTHB – Infill New Construction. **This activity is eligible only if the application clearly documents the availability of grant funds or building sites currently owned by the Applicant or Developer which will be made available at a below market rate to reduce development costs so that costs do not exceed 100percent of appraised value. Please make sure that the application clearly provides the required documentation. For example, if the source is a development grant, provide a firm letter of commitment from the funding source for this project. The Department will make its determination based solely on the contents of the application; no opportunity will be provided to submit additional information or documentation.**

- Owner-Occupied Housing Rehabilitation (OOR) Program

- Tenant-Based Rental Assistance (TBRA) Program

For more information on HOME eligible activities, see Section V.

Note: The combination of federal and state HOME regulations applicable to mobile and manufactured housing is very complex. Applicants considering these activities are encouraged to discuss eligibility with HOME staff prior to submitting an application.

E. Funding Announcements and Standard Agreements

The Department will send award letters by December 31, 2012 for successful Program Activity applicants and by January 31, 2013 for successful project applicants. Standard Agreements for Program activitity will follow 45-60 days after the award letter date. Standard Agreements for projects will not be sent until April because they will not be executed until the next State Fiscal Year (FY) due to the availability of federal funds.

To aid in your planning, updates on planned award and contract status will be provided through the "HCD List" e-mail system. To be added to this list, please use the following link: http://www.hcd.ca.gov/fa/DFA_Subscriber.html. Scroll down to the HOME Program and select the email alert lists you wish to receive.

F. Pre-Application E-Mail [Optional and highly recommended]

To aid the Department's planning and to provide better technical assistance, applicants are requested to submit a non-binding project description by e-mail to home@hcd.ca.gov by June 30, 2012 describing the nature of their proposed application. Please provide the following information:

- **For projects: applicant name, project name and location, development team members, and basic financial information (4% or 9% tax credits planned, other major funding sources) or**
- **For programs: applicant name and planned activities, and whether the applicant has already met the 50percent expenditure requirement (or it is not applicable because there will be no open HOME program activity contracts as of the application deadline).**

G. Responsibility of applicant, if funded, to disclose all changes to the project.

If awarded funding, the awardee must file regular reports each month (for projects) or each quarter (for all other activities). The awardee is responsible to disclose all changes to the activity from that disclosed in the HOME application. Such changes could include but are not limited to: higher cost, the need for additional funds, the intent to apply for additional funds, cost savings, development team member changes, changes in relationship among members of the development team, utility allowances, and availability of utility rebates. The Department may request documentation of the change as necessary to analyze the significance of the change. Failure to report accurately may result in a loss of points in future HOME funding rounds.

II. REGULATORY AUTHORITY

A. HOME regulations and NOFA suspension/amendment: All applications are governed by the state HOME regulations as amended and the federal Final HOME Rule. If the federal or state statutes or regulations governing the program or its funding are modified by Congress, the Department of Housing and Urban Development (HUD), the State Legislature, or the Department prior to completion of work, the changes may become effective immediately and apply to funded activities.

B. **Congress included several provisions in the HUD FY 2012 appropriations act that are immediately effective for all activities funded with FY 12 funds (all activities funded pursuant to this NOFA will be funded with FY 12 or later funds):**
   - **HCD must conduct an underwriting review, assess developer capacity and fiscal soundness, and examine neighborhood market conditions to ensure adequate need for the project. HCD has historically already reviewed project underwriting and market conditions as part of application review. New information will be**

requested in the Application forms so HCD can evaluate developer capacity and fiscal soundness.

- **HCD must ensure that CHDOs have staff with demonstrated development experience. CHDO applicants will be asked in the Application to provide specifics on staffing.**
- **Projects funded from this NOFA must be completed and ready for occupancy within four (4) years of the commitment ("set-up") date. HOME contracts already require completion well within the 4 year period. However, applicants are advised this rule will limit HCD's flexibility to extend contracts funded by this NOFA and may result in disencumbrance of project funds if all financing cannot be secured in time to complete construction and be ready for occupancy within four years.**
- **Homeownership units not sold to a homebuyer within 6 months of completion of rehabilitation/construction must be rented as a HOME rental unit. HCD will carefully evaluate the feasibility of proposed homebuyer activities to make sure there is a strong market for homebuyer units, that the project is financially feasible, and that if the homes cannot be sold to eligible borrowers in time, there is a realistic contingency plan to avoid having to rent out the homes. The analysis of financial feasibility includes but is not limited to a determination that there is sufficient value to support all development costs.**

C. **The Federal government has published a "Proposed Rule" which would make many changes to the HOME program. HUD has announced these regulations are expected to become final in Fall of 2012. Depending on the transition rules described in the "Final Rule", these changes may significantly affect activities funded by this NOFA. Examples of possible effects include but are not limited to: disencumbrance of project awards if unsuccessful in the first year in obtaining all permanent financing, amended Standard Agreements, direct regulatory agreements between HCD and developers, etc. Please follow this link for more information on the proposed changes:** http://www.hud.gov/offices/cpd/affordablehousing/homeproposedrule/index.cfm.

D. **The State has also proposed revisions to the State HOME regulations which, if enacted as proposed, would also apply to applications funded pursuant to this NOFA. These proposed regulations have been incorporated into this NOFA. Final approval of the regulations through the Office of Administrative Law is expected prior to the issuance of the HOME awards.**

E. The Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, the Department will notify interested parties.

F. This NOFA does not include the text of all applicable regulations that may be important to particular projects. For proper completion of the application, the

Department encourages potential applicants to consult the state and federal HOME Program regulations, and other federal cross-cutting regulations (referred to in Subpart H of the federal HOME regulations). Rental project applicants should also consult the state Uniform Multifamily Regulations (UMRs), which apply to all HOME-funded rental projects.

Several of the terms used in the HOME Program have specific meanings defined by federal and/or state HOME regulations. When reviewing this NOFA and the application forms, carefully review the regulations for definitions and terms. State HOME definitions are found in Section 8201 & 8217 of the state HOME regulations.

For your convenience, hyperlinks to the HOME regulations and UMRs are provided below.

State HOME regulations -
http://www.hcd.ca.gov/fa/home/State_HOME_Regs.pdf**.**

Uniform Multifamily Regulations -
http://www.hcd.ca.gov/fa/home/UniformMultifamilyRegsFinal071110.pdf

Federal HOME regulations -
http://www.hud.gov/offices/cpd/affordablehousing/lawsandregs/regs/finalrule.pdf

Proposed Final Rule Amendments
http://www.hud.gov/offices/cpd/affordablehousing/homeproposedrule/index.cfm

HOME staff is available to discuss HOME Program requirements and to provide individual technical assistance to applicants in preparing an application.

III. APPLICATION PROCEDURES, FINAL FILING DEADLINE, AND AWARD ANNOUNCEMENTS

A. **One original application** must be **received** by the Department **no later than 5:00 p.m.** on **August 17, 2012.**

Applicants must submit separate application forms in separate binders for each activity (e.g., Project 1, Project 2); however, program activities can be combined together in one binder as noted below. In addition, rental project applicants must submit one copy of their completed Universal Application Form, HOME Supplement, and all Project Development Plan (PDP) Attachments on a PC-compatible Compact Disc (CD). Please keep the electronic worksheets unprotected so staff can use them to prepare Loan Committee project reports. Please separate all application attachments and major sections of an application binder with tabbed dividers. **Note: New this year, no copy of the original application is required.**

Examples:

1. An applicant wishes to submit one application for a rental project and a FTHB project. The applicant will submit two separate binders and a PC-compatible CD as follows:

   a) One original of the Universal Rental Project Application Form, the HOME Supplement, and all attachments for the rental project, (binder 1);

   b) One copy of the Universal Application Form, the HOME Supplement, and all Project Development Plan (PDP) Attachments on CD and;

   c) One original of the FTHB Project Application Part A, Part B, and all attachments for the FTHB project (binder 2).

2. An applicant wishes to submit one application for a rental project and FTHB and TBRA program activity funds. The applicant will submit two separate binders and a PC-compatible CD as follows:

   a) One original of the Universal Rental Project Application Form, the HOME Supplement, and all attachments for the rental project, (binder 1),

   b) One copy of the Universal Application Form, the HOME Supplement, and all Project Development Plan (PDP) Attachments on CD; and

   c) One original of the Program Activities Application Part A, Part B, and all attachments for the FTHB and TBRA activities (binder 2). Please Note: Separate and complete Part B Application Forms must be submitted for each program activity for which you are applying (e.g. FTHB and TBRA).

Rental new construction project applicants requesting HOME funds for “Deep Targeting” are also required to submit a second set of documents pertaining to their project if it were to receive additional funds for Deep Targeting. (See Section X of the NOFA for more information.)

Applications mailed via the U.S. Postal Service must be received by the HOME Program no later than 5:00 p.m. on August 17, 2012 and must be addressed to:

Department of Housing & Community Development
Division of Financial Assistance
HOME Program
P.O. Box 952054, Suite 390-3
Sacramento, CA 94252-2054

Applications sent using private carriers or delivered in person must be received by the HOME Program no later than 5:00 p.m. on **August 17, 2012.** If applications are personally delivered, the receptionist will date stamp the application and provide a receipt as proof of delivery. The delivery address is:

Department of Housing & Community Development
Division of Financial Assistance
HOME Program
1800 Third Street, Room 390
Sacramento, CA 95811

Applications that do not meet the filing deadline requirements will not be eligible for funding. Applications must be on the forms provided by the Department and these forms cannot be altered or modified by the Applicant.

B. CHDO Certification

- Normal CHDO Certification Process: Applicants for CHDO certification (and CHDOs that have a certification that will expire before August 17, 2012) must submit certification documents by June 29, 2012 for new CHDO applications and July 9, 2012 for CHDO recertifications or expansions of service area. All CHDO applicants must complete the CHDO self-certification contained in the application to certify they have either 1) submitted their application for certification by the deadline, or 2) are currently certified and in compliance with certification requirements.

- Annual Recertification for Existing CHDOs. HUD requires HCD to conduct a modified re-certification process each time new CHDO set-aside funding is awarded. If you are an existing CHDO last certified prior to January 1, 2012, please submit the documents set forth in NOFA Appendix G with your HOME application by the application deadline of August 17, 2012. **New this year is the requirement per Congressional budget language for CHDOs to provide information showing that it has staff with demonstrated development experience.**

- Please contact Stuart Baker at (916) 322-1278 for assistance with CHDO Certification Process.

C. Application form: After the application deadline, HOME staff may contact applicants to ask where in the application specific information is located. In addition, the Department may, in its sole discretion, request an applicant to supply clarifying information provided that such information does not affect the competitive rating and ranking of the application. This clarifying information may be used by the Department to make a determination of whether the project is financially feasible pursuant to Section 8212 (a) (6) (a) and complete pursuant to Section 8211 of the state regulations. No information, whether written or oral, will be accepted if the provision of such information would result in a competitive rating point advantage to the applicant or a competitive rating point disadvantage to other applicants.

D. Rental Project Scoring, Notification, and Appeal Process

Rental Project application scoring will conclude by mid-October. E-mails will be sent to the authorized representative and contact person listed in the application describing the scores and the specific facts upon which those scores were determined. Applicants will have five working days to submit an appeal to the e-mail address provided by the Department. A final determination will be provided within five working days from receipt of the appeal.

E. Program Activity Appeal Process for Missed and Late Reports

Program Activity application scoring for missed and late reports will be completed in early October. E-mails will be sent to the authorized representative and contact person listed in the application describing the scores and the specific facts upon which those scores were determined. Applicants have five working days to submit an appeal to the e-mail address provided by the Department. A final determination will be provided within five working days from receipt of the appeal.

F. Department Local Assistance Loan and Grant Committee

The Department anticipates that HOME rental projects will be reviewed by the Department's Local Assistance Loan and Grant Committee at the November 2012 Loan Committee meeting.

Only those applications with the highest scores, which the Department has determined to be financially feasible, will be presented to the Loan Committee. The Department reserves the right to request information in addition to that contained in the application to determine financial feasibility.

Note: Applicants must notify the Department prior to the Loan Committee meeting of any project changes that occur after the HOME application has been submitted.

Applicants whose applications are recommended for funding will receive a draft Department project report for their review (sent to the e-mail addresses provided in the application) approximately one to two weeks prior to the Loan Committee meeting.

Representatives of the applicant and the developer are encouraged to attend the Loan Committee meeting if their project is recommended for funding. The Loan Committee has occasionally tabled projects if the applicant and developer's representatives are not present to answer the Committee members' questions on the project.

The Loan Committee decisions are considered advisory recommendations. The final funding decision will be made by the Department following the Loan

Committee meeting, at which time award letters will be prepared. These award letters may specify special conditions to be met prior to issuance of the Standard Agreement. Please make sure that all members of the development team and your consultants are aware of these conditions as soon as possible.

IV. ELIGIBLE APPLICANTS

A. Applications will be accepted only from:

- Cities and counties that have not been designated as Participating Jurisdictions by HUD;
- Cities that are not participants in an urban county agreement with a county that is a HUD Participating Jurisdiction;
- Cities and counties that are not participants in a HOME consortium;
- Eligible cities and counties where projects are located in the city's incorporated area or the county's unincorporated area.

B. Eligible Applicants

Eligible jurisdictions for FY 2012 are listed in Appendix A of the NOFA. If the city or county is not listed in Appendix A, but you believe it should be, please submit by July 13, 2012 a copy of the consortium or urban county agreement for your county indicating that your city or county is not a participant for FY 2012 consortium or urban county funding.

Pursuant to State HOME Regulation Section 8217, State Recipients and CHDOs that may be held out from applying in a particular funding round because they have a HOME project that has missed three deadlines, may request that this penalty be waived if it can be demonstrated that one or more missed deadlines were clearly beyond the control of all of the following parties: applicant, developer, owner, and managing general partner. Contact State Recipient Projects Manager Ferol Kimble, (916) 327- 8571 or CHDO Manager Laura Bateman, (916) 322-7556 to discuss. In order to receive a decision on your waiver request before the HOME application deadline, it is recommended that you submit your written waiver request by July 27, 2012.

HOME funds may be used to assist Indian tribes consistent with applicable state and federal requirements. However, pursuant to state HOME regulation 8204, only cities, counties, and CHDOs may submit a HOME application. Indian tribes are not eligible applicants.

C. Minimum Expenditure Requirement for Program Activities (50% Rule)

Pursuant to State HOME regulation Section 8204(b), applicants with current HOME program activity contracts are eligible to apply for HOME program activity funds only if they have expended, by the application due date of August 17, 2012 at least 50 percent (50%) of the total of all program activity funds originally awarded in their current HOME contracts. Potential applicants with no open HOME Program Activity contracts are not affected by this rule. A current HOME contract is one where the expenditure deadline has not yet occurred by August 17, 2012, i.e. generally a contract numbered, "10" or "11-HOME".

Please note that if an earlier contract has been extended and has not yet reached its extended expenditure deadline, it will count for this 50% rule.

"Expended" funds are the total of all valid draws received at HCD by the application deadline. Additionally, a valid draw is limited to the amount needed for reimbursement of actual expenses for work that has been completed ("work completed"). The definition of "work completed" varies by activity, as follows:

- FTHB activities: escrow has closed;
- TBRA activities: the amount expended is the rental assistance amount multiplied by the number of months in the individual tenants' TBRA rental assistance agreements;
- OOR activities: the amount expended is the amount of construction/rehabilitation payments that were made for work completed and inspected.

D Compliance with OMB A-133 Audit submission requirements

To be eligible for funding the applicant must be in compliance with the submission requirements of the OMB A-133 Audit report. Audit reports must be submitted to the State Controllers Office by August 17, 2012 to meet this requirement. The Department will make its determination on the status of A-133 Audit compliance as of August 17, 2012 by consultation with the California State Controller's Office (SCO). Jurisdictions that are exempt from filing an A-133 Audit because the level of federal funds is below the threshold may, in addition to notifying SCO, also submit with their HOME application a copy of the letter written to SCO notifying them that the jurisdiction is exempt. For additional information see Section XXI of this NOFA.

E. Over-the Counter (OTC) Program Funds

Note: The OTC funding availability is possible only if the amount requested by all applicants is far lower than historical levels. The Department will notify all parties through the "HCD List" process if there will be an OTC Program funding opportunity.

V. ELIGIBLE ACTIVITIES

To be eligible for funding, an application must be for one of the following types of projects and/or programs activities. Rental and homebuyer projects with multiple sites must have common ownership and financing.

Projects

1. Rental New Construction Project – Funds provided to develop a specific multifamily project on a specific site by a specific developer. Rental New Construction projects may be with or without acquisition.

2. Rental Rehabilitation with or without acquisition – Funds must be provided to rehabilitate a specific rental project without a transfer of ownership or to both acquire and rehabilitate a specific rental project.

   Per Section 92.205 (a) of the federal HOME regulations “acquisition” is generally thought of as an arms-length transfer of real property between unrelated parties. Therefore, a project is eligible as a “rehabilitation with acquisition project” only if there will be an acquisition of real property, not just a change in partnership interests.

   Projects involving only acquisition (where no rehabilitation is being done) are not eligible.

   Physical Needs Assessment - Pursuant to 24 CFR 92.251, housing that is constructed or rehabilitated with HOME funds must meet all applicable local codes, and rehabilitation standards at the time of project completion. Projects involving rehabilitation must do sufficient rehabilitation to ensure the long-term viability of these projects. Pursuant to UMR 8309 (b) (2), the Department will require rental rehabilitation project applicants to submit a reliable physical needs assessment (PNA) as part of the financial feasibility analysis process conducted before the application goes to the Loan and Grant Committee.

   However, to expedite the review process, applicants are strongly encouraged to prepare and submit the PNA as part of the application. Note: Application rating points are awarded for submitting an acceptable PNA because the results of the PNA are critical to evaluating the readiness of the project.

   Rehabilitation Projects where HOME is the Only Source of Financing

   Inspections - In rehabilitation projects where HOME is the only source of financing, (typically rehabilitation projects with no acquisition involved), inspections of progress must be conducted and formally documented prior to draw down of HOME funds. CHDOs must hire a third-party construction inspector for this purpose. State Recipient projects may use the jurisdiction’s own staff to perform these inspections.

Capitalized Operating and Replacement Reserves – Pursuant to Section 92.214 of the federal HOME regulations, HOME dollars cannot be used to pay the initial deposits to the operating and replacement reserves required under UMR Sections 8308 and 8309. Therefore in a project where HOME is the only source of financing, or if other lenders/equity partners will not pay for these costs, they must be paid by the developer.

3. Homebuyer Projects - The development of homes to be sold to first-time homebuyers. HOME funds can be used for:

   a) Construction financing of new construction or acquisition/ rehabilitation/ conversion projects, with 100 percent of the HOME investment rolling over to permanent financing and being used to provide mortgage assistance to first-time homebuyers; or

   b) Homebuyer mortgage assistance only in a project that is being constructed or acquired and rehabilitated with other funds.

Program Activities

State Recipients may apply for any number of HOME-eligible program activities set forth below. CHDOs are only eligible to apply for FTHB acquisition with rehabilitation and/or infill new construction funds. Applicants must submit program guidelines and feasibility information for each activity for which they are requesting funds.

Eligible program activities are as follows:

- First Time Homebuyer (FTHB) Program:

  a. Funds provided to a HOME-eligible city or county to provide loans to homebuyers for acquisition only and/or acquisition with rehabilitation of a dwelling that the homebuyer selects from the open market, and/or;

  b. Funds provided to a HOME-eligible CHDO to perform acquisition with rehabilitation activities. To be considered a CHDO-eligible activity the CHDO must assume the role of developer and own the property, completing the rehabilitation of the unit prior to selling the home to an eligible homebuyer, and/or;

  c. Funds provided to a city, county or CHDO to provide assistance for the new construction of dwellings on scattered sites in an existing built-out neighborhood, with no more than four dwellings on each vacant site. Pursuant to National Enviornmental Policy Act (NEPA) requirements, an Environmental Assessment (EA) will be required if more than four units, regardless of funding source, are developed within 2000 feet of one another. To be considered a CHDO-eligible activity the CHDO must assume the role of developer and own the property during construction, selling the home to an eligible homebuyer.

Pursuant to State Regulation Section 8207, the FTHB primary mortgage loan must be fully amortizing and have a fixed interest rate that does not exceed the current market rate, as established by the 90-day "posted yield" for thirty-year fixed rate loans, as established by Fannie Mae at https://www.efanniemae.com/sf/refmaterials/hrny/index.jsp: plus 100 basis points. See Section XIII for more information regarding FTHB primary loan terms.

- Owner Occupied Rehabilitation (OOR) Program:

  Funds provided to a HOME-eligible city or county to assist owners whose primary residence is in need of repairs, improvements or reconstruction necessary to meet federal, state, or local building codes and correct all health and safety deficiencies

- Tenant-Based Rental Assistance (TBRA) Program:

  Funds provided to a HOME-eligible city or county to administer a program to provide rent subsidies to eligible households. The minimum term of rental assistance to an eligible household is six (6) months; however, the tenant must be initially offered a one year lease. The assisted tenant may accept a term of less than one year (minimum 6 months) after being offered a one year lease. TBRA funds may be used to assist tenants to reside in any HOME-eligible jurisdiction within the county where the TBRA funds were awarded. For example, TBRA funds awarded to the City of Winters can also be used for units located in Woodland, West Sacramento, or the unincorporated areas of Yolo County since all of these jurisdictions are State HOME-eligible within Yolo County, but may not be used in Davis, which is not State HOME-eligible.

VI. INELIGIBLE USES OF FUNDS

- Per the discretion provided by HUD under Section 92.206 (b) of the HOME Final Rule, the Department does not permit the use of HOME funds for refinancing so that HOME funds can be used instead for direct housing production/rehabilitation. However, repayment of bridge loans, under certain circumstances, may be eligible. Contact the Department to discuss your situation.

- As a general rule, with the exception of NEPA environmental review expenses, HOME funds cannot be used for expenses incurred prior to the execution of the state Standard Agreement. However, on a case-by-case basis, HOME Management may permit reimbursement for other expenses incurred after the date of the award letter and prior to the effective date of the Standard Agreement.

- Rental Rehabilitation and/or Acquisition programs are ineligible.

- Projects involving only acquisition are ineligible.

- Pursuant to HOME federal Regulation 92.206 (a) (4), for rental projects, costs associated with the construction or rehabilitation of laundry facilities and other community facilities which are located in separate buildings containing no residential units are ineligible HOME costs, and cannot be paid for with HOME funds.

  Note also, in order for space within residential buildings, such as laundry facilities or a community room, to be paid for with HOME funds that space has to be for the exclusive use of project residents and their guests. It cannot be space available for use by the general public.

- For further ineligible uses of HOME Funds, refer to 24 C.F.R. 92.214 of the federal regulations.

If an application is submitted proposing an ineligible use, only that portion of the application proposing eligible uses will be rated and eligible for funds.

VII. FORMS OF HOME ASSISTANCE

A. HOME Loans: HOME assistance shall be in the form of loans to be repaid to local HOME accounts controlled by State Recipients, qualified CHDOs, or the state's HOME account, except for the uses of funds specifically defined below under HOME grants. Loans provided to homebuyers must meet the requirements set forth in Section XIII. below.

B. HOME Grants: HOME assistance must be provided in the form of a grant for relocation payments, lead-based paint hazard evaluation and reduction activities, and tenant-based rental assistance.

   HOME assistance may be provided in the form of a grant for rehabilitation activities performed under a first-time homebuyer or owner-occupied rehabilitation program if necessary to complete the project when the total of all project indebtedness equals or exceeds the projected after-rehabilitation appraised value.

   The grant amount for rehabilitation activities is limited to up to 25percent of the applicable HUD 221 (d) (3) per unit subsidy limit for the project. This amount would be in addition to any grant funds currently permitted for relocation, lead-based paint remediation, and activity delivery costs for the project.

   HOME assistance may also be used for Activity Delivery Cost grants. Activity Delivery Costs are further defined by the term "related soft costs" in the HOME Final Rule at 92.206(d) except that customary closing costs for home acquisition activities may be charged either as a loan or part of the 6.5percentfunding for Activity Delivery Costs.

HOME funds for Activity Delivery Costs must be drawn down at the same time HOME funds for Activity Costs are drawn down. If the activity is not completed and a Project Completion Report for the full amount drawn down is not filed, all HOME funds for that project, including Activity Delivery Costs, must be repaid to the Department. For FTHB projects, special care should be taken in requesting Activity Delivery funds during the construction phase. If the entire amount of the construction loans should inadvertently not roll over into permanent loans, the proportional amount of Activity Delivery Costs must be repaid to the Department. More information on Activity Delivery Costs is set forth in Section XII. below.

C. NEPA Expenses: To encourage early NEPA environmental compliance, HOME funds may be used to reimburse NEPA expenses incurred by a successful applicant prior to the effective date of the Standard Agreement. These expenses must be reasonably necessary for the proposed project and will only be paid when the Standard Agreement is fully executed. NEPA consultants may be chosen using the "small purchase" procurement method, i.e. by use of informal price quotations.

VIII. MINIMUM AND MAXIMUM AMOUNTS OF HOME FUNDS PER PROJECT

The minimum amount of HOME funds that must be invested in a project involving rental or homeownership housing is $1,000 times the number of HOME-assisted units in the project (# of units x $1,000 = minimum amount of HOME funds). The $1,000 minimum per unit requirement does not apply to Tenant-Based Rental Assistance funds.

The maximum amount of HOME funds invested in a project shall not exceed the lower of : (1) the per-unit dollar limits (221(d) (3) limits), established by HUD under 24 C.F.R. 92.250; (2) pursuant to 92.205(d), the proportion of HOME-assisted units compared to all units in the project, and the square footage of HOME units compared to all other units in the project; and (3) the total amount of eligible costs necessary, (when combined with other financing and assistance), to accomplish the following:

A. Enable the project as proposed to be developed and to operate in compliance with all HOME requirements, including the subsidy-layering requirement at 92.250. See HUD CPD Notice 98-1 for more information.

B. For rental activities of five or more units, achieve a debt-service coverage ratio in accordance with UMR Section 8310, and adequate cash flow to ensure long-term financial feasibility.

C. FTHB and OOR activities are subject to the Maximum Purchase Price/After Rehabilitation Value Limits under Section 203(b) (203(b)) of the National Housing Act. The current 203(b) limits can be found at: http://www.hcd.ca.gov/fa/home/homelimits.html. Please note that HUD's proposed regulations would greatly reduce these limits.

Note: Section 92.254 (a) (2) (iii) of the HOME Final Rule also allows a request for a higher limit, based on a local market analysis, to be submitted through HCD to HUD, for review. Several communities already have higher HUD approved limits that are more than a year old. HUD has instructed HCD that these approvals must be renewed annually. Therefore, all current HUD approved higher limits dated prior to June 30, 2011 will expire on June 30, 2012. After June 30, 2012, the published limits attached will apply unless you request a higher limit. You will need to submit a new request every year thereafter. Note: If the jurisdiction receives a 203(b) waiver, the new limit will not appear on our website.

The total amount of HOME Funds, including Activity Delivery Costs, per project cannot exceed the amount listed in the HUD 221(d)(3) subsidy limits and the amount necessary as determined by a subsidy layering review specified in 24 C.F.R. 92.250 of the federal regulations. See http://www.hcd.ca.gov/fa/home/homelimits.htmlfor the current 221(d) (3) limits.

Pursuant to federal regulations, any one project may receive HOME funds from only one HOME award. This prohibits the combination of awards from a State Recipient and a CHDO on the same project and prevents the combination of awards from more than one HOME NOFA on the same project.

IX. MAXIMUM APPLICATION AMOUNT/COMBINATIONS OF ACTIVITIES

Applicants may submit only one HOME application pursuant to this NOFA. An application may consist of no more than two activities as follows:

- One rental project and one FTHB project; or
- One rental project, and any combination of eligible program activities; or
- One FTHB project and any combination of eligible program activities except for a FTHB program; or

Separate application forms must be submitted for each project. Each project will be rated and ranked separately.

Applicants requesting project funding for a rental project consisting of two sites (the maximum pursuant to this NOFA) must be in conformance with UMR 8301 (o), specifically both sites must have common ownership, financing, and management. Where a rental project is located on non-contiguous parcels, all of the parcels shall be governed by similar tenant selection criteria, serve similar tenant populations and have similar rent and income restrictions. Program activities are not site-specific; therefore, these limitations do not apply to them.

The maximum application amount is determined by adding the maximum amounts for each of the activities in the application.

The amount of rental project funds, not including Administration or Activity Delivery funds, received by any individuals, entities, affiliates, and related entities is limited to no more than $5 million. This limitation is applicable to a project applicant, developer, sponsor, owner, general partner, development team members and to parent companies, principals of entities, and family members. For the purposes of this section, related or non-arm's length relationships are further defined as those having control or joint-control over an entity, having significant influence over an entity, or participating as key management of an entity. Related entity disclosure is required at the time of application. Pursuant to State HOME Regulation 8213, rental projects will be funded in rank order regardless of any request by the applicant or a development team member to allocate the maximum $5 million differently.

Note also that pursuant to 24 CFR 92.250, before committing funds to a project, the Department must evaluate the project in accordance with the Department's Uniform Multifamily Regulations (UMR) and will not invest any more HOME funds, in combination with other governmental assistance, than is necessary to provide affordable housing. All loan amounts will be verified by a subsidy layering analysis, and loan amounts will be reduced if the amount requested exceeds what is needed. Loans are also subject to the federal 221(d) (3) limits. See http://www.hcd.ca.gov/fa/home/homelimits.html.

Note regarding maximum HOME loan amounts and available funds for Administration, CHDO Operations and Activity Delivery Costs, applicable to Rental New Construction, Rental Rehabilitation with or without Acquisition, and Homebuyer projects: the loan limits stated below do not include funds for Administration, CHDO Operations, or Activity Delivery. For example, an applicant may request $2.1 million for a 9 percent tax credit project, i.e. a $2 million loan, and $50,000 for Administration and $50,000 for Activity Delivery (for a State Recipient project applicant). See Sections XI and XII of the NOFA for Administration/CHDO Operations and Activity Delivery amounts.

Individual activity limits are as follows:

Rental New Construction Project Loan Limits

- **$2,000,000: Projects using 9 percent Low Income Housing Tax Credits.**
- **$4,500,000: Projects not using 9 percent Low Income Housing Tax Credits**

Prior to the issuance of the award letter, the Department will evaluate the financial feasibility of each project and may, as necessary for project feasibility or to prevent oversubsidizing a project per the UMRs, increase or decrease the HOME loan amount without regard to the limits specified in this section. This paragraph also applies to Rental Rehabilitation with or without Acquisition projects.

Deep Targeting:

Rental new construction projects requesting funds for Deep Targeting can request up to an additional $1,000,000 in addition to the maximum application amount for their activity shown above.

Per Section 8212.3 (e) of the State HOME Regulations, projects with 9 percent tax credits and rental rehabilitation with or without acquisition projects are not eligible for Deep Targeting funds. See Section X for more information on Deep Targeting.

Rental Rehabilitation with or without Acquisition Loan Limits

- **$2,000,000: Projects using 9 percent Low Income Housing Tax Credits, or projects that do not meet the requirements outlined below.**

- **$4,500,000: Projects that meet both of the following requirements. First, there is no use of 9 percent Low Income Housing Tax Credits. Second, either:**

  a) 80 percent of all units in the project will be restricted to tenants with household incomes of less than 50 percent of Area Median Income (AMI) at initial occupancy with rents restricted at no more than the low HOME rent level; or

  b) 80 percent of all units in the project will have project based rental assistance. Tenant-paid rents for these units will be restricted to no more than the Low HOME rent level. If the tenant-paid rents meet this Low HOME rent level due to rental assistance payments, the rental assistance must be renewable. Tenant incomes at initial occupancy, must also be at or below the 50 percent AMI level.

Homebuyer Project Loan Limits

- **Up to $80,000 per unit for up to a maximum of the lower of $2,000,000 or 5percent of the total amount awarded pursuant to this NOFA. If the total amount awarded is $30 million, the limit would be $1.5 million. However it is possible the total awarded may exceed $30 million if disencumbered funds becomes available. Applicants for this activity may request in excess of $1.5 million up to the stated limit. If necessary, the Department will reduce the award amount accordingly.**

- This per-unit amount is only for the purpose of calculating the maximum amount to be requested. The federal 221(d) (3) and 203(b) limits still apply. All loan amounts will be verified by a subsidy layering analysis, and loan amounts will be reduced if the amount requested exceeds what is needed.

Combining FTHB Program and Project Funds in a Project - Using HOME homebuyer project funds, HOME homebuyer program funds and/or any HOME program income in the same homebuyer project (e.g. subdivision) is not permitted without prior written HOME Management authorization.

See Section XIX of the NOFA for information on federal prevailing wage requirements as they pertain to homebuyer projects.

Program Activities Funding Limits

$700,000: Applies to HOME-eligible applicants for all program activities (including Administration and Activity Delivery Costs).

New for 2012, there is now a minimum application request of $500,000. This is necessary to keep the number of contracts manageable.

Program Income: Federal HOME regulations require that all Program Income be expended prior to drawing down HOME Funds. Program Income may not be "banked" or set-aside in re-use accounts. This rule applies to all State Recipient HOME applications. Successful applicants may not draw down new HOME funds for project draws if they have Program Income on hand. State Recipients with Program Income must consider this when deciding how much to request in this funding round. If a project applicant historically receives a substantial amount of Program Income, the applicant should contact its HOME Representative to discuss ways to use this Program Income in a way that does not impede the ability to draw down funds awarded pursuant to this NOFA.

X. DEEP TARGETING

A total of **$2 million** is available as part of the rental project allocation to assist rental new construction projects to reduce or eliminate permanent private debt requiring mandatory debt service for the purpose of lowering rents on some or all of the project's units. Eligible applicants may apply for up to an additional $1,000,000 in HOME funds. Eligible projects are rental new construction projects without 9 percent Tax Credits, that set a portion of their units rents at 40 percent of AMI or below for 55 years.

Applicants for Deep Targeting funds **must** submit **two** sets of Application documents as set forth in the Deep Targeting Documentation Checklist of the HOME Supplement to the Universal Rental Application. This additional documentation must illustrate any differences in proposed project rent levels, financing commitments, and other financials when funded at the Deep Targeting funding level versus the regular maximum HOME funding level. The additional documentation must also include another "Financial Feasibility Self Evaluation" form.

The Department expects to see a reduction in rents, debt service, operating reserve, and private financing commitments as a result of reduced private debt. Except for differences attributable to reduced private debt, there must be no difference in Total Development Cost, or total operating expenses and required reserve deposits under the regular HOME funding scenario versus the Deep Targeting funding scenario. Any differences in Total Development Cost or total operating expenses and required reserve deposits between the two scenarios should be explained in the application.

Although the project unit mix may change with Deep Targeting funds, the total number of units in the project may not change. In putting together the unit mix under both scenarios, among the HOME-assisted units no more than four different rent AMI levels shall be used for each bedroom size.

Deep Targeting Rating Factors

If there are more requests for Deep Targeting funds than there are funds available, the available funds will be allocated to projects that rank high enough to be funded through the normal rating and ranking process (described in Section XXII below), and that also rate high enough on the Deep Targeting rating factors below:

i. The higher the percentage of HOME units restricted at or below 40 percent AMI, the more Deep Targeting points that will be awarded; and
ii. The lower the average rent expressed as a percentage of AMI, the more Deep Targeting points that will be awarded.

In evaluating the level of Deep Targeting for the award of points, projects will only be compared with other projects in counties with similar HOME income limits. Fifty percent of funds will be made available to projects in counties in which the HOME fifty percent AMI limit for a household of four is below $33,500, and fifty percent of the funds will be made available to projects in counties whose HOME fifty percent AMI limit for a household of four is $33,500 or more. Unused funds in one group will be made available for the other group.

All Deep Targeting units must remain deeply targeted for a full 55-year affordability period, pursuant to a HOME regulatory agreement or a regulatory agreement held by another government financing agency.

If a project does not score high enough on the Deep Targeting factors to receive Deep Targeting funds, it will be evaluated for overall HOME rating purposes using the rents that are proposed at the regular maximum HOME funding level.

Please contact Christina DiFrancesco at (916) 322-0918 for assistance on Deep Targeting applications.

XI. ADMINISTRATIVE AND CHDO OPERATIONS FUNDS

The following limits apply to the amount of State Recipient administrative and CHDO Operations funds applicants may receive:

Projects:

A. State Recipient applicants receiving up to $1,000,000: up to $25,000 of administrative funds.
   CHDO applicants receiving up to $1,000,000: up to $75,000 of CHDO Operations funds.

B. State Recipient applicants receiving $1,000,000 or more: up to $50,000 of administrative funds.
   CHDO applicants receiving $1,000,000 or more: up to $100,000 of CHDO Operations funds.

Program Activities:

All program activities applicants may request up to 2.5 percent of the total application amount for Administrative funds (for State Recipient applicants) or CHDO Operations (for CHDO applicants).

Actual eligible expenses must be incurred to draw down these funds.

XII. ACTIVITY DELIVERY FUNDS (State Recipients only, except where noted)

Projects

Rental and homebuyer projects may receive up to $50,000 of the contract amount (loan and grant funds) for Activity Delivery costs ("Activity Delivery Funds"). Activity Delivery Funds are grants, and are not part of the project loan amount. Activity Delivery Funds may be used at the State Recipient's discretion to fund the Activity, Activity Delivery costs, or any combination of the two. See 24 C.F.R. 92.206 (d) (6) and 92.206 (f) (2) for a description of the types of expenses which may be charged to Activity Delivery. Activity Delivery, Administration, and CHDO Operations funds should not be included in the Development Budget since the development budget must reflect HOME loan amounts only, not HOME grant funds.

Programs

Except for TBRA activities, state Standard Agreements (contracts) will automatically allow the use of up to the maximum amount of Activity Delivery funds for each specific activity. At the time of set-up (i.e. when the HOME Recipient is ready to begin drawing activity funds) an Activity Delivery fund request may be made for actual expenses:

- Up to 24 percent of the HOME loan/grant amount for Owner-Occupied Rehabilitation.

- Up to 6.5 percent of the total project cost for FTHB activities involving acquisition with rehabilitation or infill new construction. CHDO applicants may also receive up to this amount from CHDO Operations instead of Activity Delivery Costs for infill program activities.

- Up to 6.5 percent of the HOME amount for all other activities.

The HOME Final Rule does not allow the use of HOME Activity Delivery funds for TBRA activities. As a result, TBRA programs receive only the standard 2.5 percent Administration allowance. **No supplemental administration funds will be provided for TBRA this year.**

XIII. FIRST TIME HOMEBUYER LOAN TERMS

Primary Loan Term Requirements Applicable to State Recipient and CHDO FTHB Loans:

Pursuant to the State HOME regulations, first-time homebuyers shall be required to obtain financing from primary lenders in addition to HOME financing. The amount of the HOME loan is limited to the minimum amount necessary as determined by a subsidy layering analysis and underwriting of the project. Loans from primary lenders shall comply with the following requirements:

a) The loan must have a minimum loan term of 30 years;
b) No temporary interest rate buy-downs are permitted; and
c) The loan must be fully amortizing and have a fixed interest rate that does not exceed the current market rate, established by the 90-day "posted yield" for thirty year fixed rate loans, as established by Fannie Mae at https://www.efanniemae.com/sf/refmaterials/hrny/index.jsp, plus 100 basis points. This means that loans that have an "interest-only" period are not eligible, even if they convert to a fully-amortized loan at some point in the loan term.

Additional State Recipient HOME Loan Terms:

Pursuant to State HOME regulation 8205(b), loans made by State Recipients assisting first-time homebuyers and homeowners whose homes are being rehabilitated shall bear simple interest rates ranging from 0 to 3 percent per annum. Interest and payments shall be deferred for the term of the loan. The State Recipient may forgive some or all of the accrued interest however principal cannot be forgiven.

Additional CHDO HOME Loan Terms:

Except as otherwise provided by the State HOME regulation Section 8206.1(c), (regarding CHDO qualification to retain loan repayments), the Department shall be the beneficiary on all HOME promissory notes and deeds of trust or HOME deed restriction documents.

Pursuant to State HOME regulation 8205(b), loans to first-time homebuyers financed from the CHDO set-aside shall bear a simple interest rate of 3 percent per annum, computed from the date the Deed of Trust is recorded on the property. Interest and payments shall be deferred for the term of the loan. Commencing on the 11th anniversary of the recordation date, an amount equal to 10 percent of the accrued interest shall be forgiven each year, so that on the 20th anniversary of the recordation date, all interest will have been forgiven if the borrower is in compliance with the requirements stated in the Department's loan documents.

XIV. ARTICLE XXXIV (Rental Projects only)

Article XXXIV of the California Constitution requires public entities to obtain voter approval before they "develop, construct or acquire a low-rent housing project." However, there are some exemptions to Article XXXIV. Health and Safety Code Section 37001 lists a number of project types that are not considered "low rent housing projects." The most typical exemption is subdivision (a)(1), which exempts projects that receive no property tax exemption, other than the welfare exemption, and in which no more than 49 percent of the units will be occupied by persons of low income.

Applicants must submit a legal opinion letter that analyzes the project's compliance with or exemption from Article XXXIV. The Article XXXIV opinion letter must demonstrate that the applicant has considered both the legal requirements of Article XXXIV and the relevant facts of the project (e.g., the public body lenders, the number of low income restricted units, and the general content of any regulatory restrictions). Any conclusion that a project is exempt from Article XXXIV must be supported by specific facts and a specific legal theory for exemption that itself is supported by the Constitution, statute, and/or case law.

If a project is subject to Article XXXIV, the letter must demonstrate that there is Article XXXIV authority for the project. This may be done by providing information from an appropriate local government official either that a referendum for the specific project has been passed by the voters, or that a blanket referendum has been passed and the locality has allocated sufficient Article XXXIV authority to the project. Applicants asserting that their proposed project complies with Article XXXIV because of the passage of a voter-approved referendum must provide a copy of the referendum and a certified vote tally along with their Article XXXIV letter. In this instance, the Article XXXIV letter must also provide information from the appropriate local government official regarding how many low-rent units are authorized under the referendum, and how many have been developed, constructed, or acquired to-date pursuant to that referendum so that the Department can determine if sufficient Article XXXIV authority exists for the proposed units.

For State Recipients, the Article XXXIV legal opinion letter must be from your local counsel. Since the Department is not the lender for State Recipient projects, the Department will generally defer to the local counsel's Article XXXIV determination as long as the Article XXXIV letter is a well-reasoned, thorough legal analysis of the facts and the law.

For CHDOs, the Article XXXIV legal opinion letter must be from the local government counsel where your project is located or from your own attorney, and must state the reasons why your project is exempt from or complies with Article XXXIV. Since the Department is the lender in CHDO projects, the Department must agree with the legal opinions and conclusions in these letters in order for them to be acceptable.   Because of the detailed nature of the Department's regulatory agreements for HOME, the Joe Serna, Jr. Farmworker Housing Grant Program (Serna), and the Multifamily Housing Program (MHP), it is the Department's opinion that CHDO projects assisted by these programs are "developed" by the Department within the meaning of Article XXXIV.

For more information regarding Article XXXIV see NOFA Appendix B.

XV. MATCH REQUIREMENTS

All match requirements are waived for applications pursuant to this NOFA. However, all eligible HOME match that applicants will obtain due to their activity's need for other funding, shall continue to be reported in the project Set-up and Completion Reports so that the Department can bank any additional match and can continue to waive match. Such match sources include match derived from below-market rate loans (even if these loans are not repaid to the HOME Local Account) State Low Income Housing Tax Credits, property tax waivers, bond financing, fee waivers, grants, and other sources. The Department will review all project Set-up and Completion Report forms to make sure that all reportable match has been included. See http://www.hcd.ca.gov/fa/home/ for a HOME match calculation tool (located under "Additional Resources"). The HOME Contract Management Manual also contains additional information and resources on Match. See http://www.hcd.ca.gov/fa/home/manual/14/.

XVI. TIME FRAMES FOR USE OF HOME FUNDS

Recipients of HOME funds are subject to progress deadlines and expenditure deadlines that are defined in the state and federal regulations and specified in the Standard Agreement.

Projects

If a project fails to meet one or more of the deadlines outlined in state HOME regulation Section 8217, the HOME applicant (City, County, or CHDO), as well as the project's developer, owner, and managing general partner may receive a performance penalty on the next project application in which they are involved. If a project fails to meet three or more deadlines, the HOME applicant shall be held out of future project funding rounds until that project is completed, occupancy is obtained, all expenditures are made, and all necessary HOME funds are drawn. The HOME applicant and the project's developer, owner, and managing general partner may also receive a performance penalty on the next project application in which they are involved.

State Recipients and CHDOs may also request that these holdout and point deduction penalties be waived when it is determined that the violation was clearly outside of the control of all of the following parties: the applicant, developer, owner and managing general partner. Contact State Recipient Projects Manager Ferol Kimble, (916) 327- 8571, or CHDO Projects Manager, Laura Bateman, (916) 322-7556 if you think you will be needing a waiver of point penalties or the holdout penalty for missed project deadlines. In order to receive a decision on your waiver request before the HOME application deadline, please submit your written waiver request by July 27, 2012.

Note: No performance penalties will be assessed by the Department for failure to meet HOME deadlines as a result of heightened competition for tax credits in 2010. No waiver requested is needed if this is the only reason why HOME deadlines were missed. Waiver requests are still necessary for all other causes of delay, including inability to receive a tax credit/exchange allocation in 2009.

Program Activities

All program activity funds must be expended by the end of the 36th month following the award date. If awards are made in December 2012, the expenditure deadline will be December 31, 2015.   **No extensions will be allowed except as noted below. Grantees must cease processing of applications well in advance of the expenditure deadline to ensure that all work is completed prior to the expenditure deadline. Exceptions will be considered only if the State Recipient shows there was clear and indisputable evidence there were delays which were beyond the control of the borrower and/or the State Recipient or that the Department was responsible for the delay.**

XVII. AFFORDABILITY REQUIREMENTS

Rent levels shall be restricted for the periods of affordability set forth above at the lesser of the rent levels permitted pursuant to the federal HOME regulations, or other rent levels approved by the Department. (Generally speaking, the other rent levels approved by the Department would be the lower rents that the applicant commits to in its HOME application.)

Exceptions to this requirement may be granted for units receiving HUD Section 8 or other similar rental assistance, or where the project’s continued fiscal integrity is in jeopardy due to factors that could not be reasonably foreseen.

At initial occupancy by each household, household income levels must be restricted at the same AMI level as the proposed rent level for each unit. In projects with renewable project-based rental assistance, rents will be determined based on the amount of the tenant-paid portion of the rent, and the rental subsidy program regulations must require that tenant AMI income levels at initial occupancy be consistent with the designated AMI rent level for that unit as set forth in the HOME application. State Objective rent levels will be restricted for the entire HOME affordability period. The manager's unit may be excluded from this calculation.

Applicants proposing the use of Low Income Housing Tax Credits must apply to the Tax Credit Advisory Committee for the exact rent structure identified in the HOME project report.

A. Rental New Construction Activities

- All rental new construction housing projects shall have affordability periods of 55 years.

B. Rental Rehabilitation Activities

- All rental rehabilitation housing projects with acquisition shall have affordability periods of 55 years.

- Rehabilitation without Acquisition

Amount of HOME Assistance Per Unit	Minimum Period of Affordability
More than $40,000	20 years
$15,000 to $40,000	15 years
Less than 15,000	10 years

C. Homebuyer Activities

Homebuyer activities shall have minimum affordability periods of:

Amount of HOME Assistance Per Unit	Minimum Period of Affordability
More than $40,000	15 years
$15,000 to $40,000	10 years
Less than 15,000	5 years

Homebuyer Recapture and Resale Requirements Applicable to State Recipients and CHDOs

Pursuant to federal HOME regulation 92.254 and State HOME regulation 8206.1 (b)(3), if the home is sold prior to the end of the affordability period, the HOME funds are subject to recapture (i.e., the HOME loan must be paid off when the home is sold). However, exceptions may be requested by State Recipients or CHDOs to provide HOME-assistance in the form of a resale loan for limited equity forms of ownership such as cooperatives and community land trusts (i.e., the purchase price may be restricted with HOME funds staying available for the next borrower). See below under "Resale Loans" for more information.

Recapture Loans: Under this option, where the local jurisdiction or the CHDO is not imposing its own resale controls, the entire amount of the HOME loan may be recaptured by the local jurisdiction or by HCD in the case of CHDO loans. The amount of accrued interest recaptured may be reduced as permitted under the State HOME Regulations. However, pursuant to 24 CFR 92.254, when the recapture requirement is triggered by a sale (voluntary or involuntary) of the housing unit, and there are no net proceeds or the net proceeds are insufficient to repay the HOME investment due, only the net proceeds can be recaptured, if any. The net proceeds are the sales price minus superior loan repayments (other than HOME funds) and any closing costs. HOME loans made under the recapture option may also be assumed by subsequent HOME-eligible purchasers.

Resale Loans: Although the HOME loan is generally not a resale loan, a State Recipient or CHDO may impose its own resale controls on a State Recipient or CHDO project when there is a source of subsidy other than State HOME funds. The source of subsidy need not necessarily be an actual loan; it may be in the form of an inclusionary housing ordinance which requires homes to sell below fair market value.

The city, county or CHDO must request advance State HOME Program approval of the resale agreement and HOME loan documents to ensure that all of these documents meet the requirements of the HOME Final Rule and the State HOME Program. Loans made under this option may be assumable by subsequent HOME eligible purchasers, even if the HOME loan is a recapture loan.

Pursuant to State Regulation 8206.1, HOME loans may be made in the form of resale loans on projects involving limited equity forms of ownership, such as community land trusts or cooperatives, when market conditions indicate that resale controls may be necessary to keep units affordable to subsequent purchasers, and when adequate protections of the State's financial interest in the project exist. However, resale HOME loans are not recommended, because if the loan must be repaid during the federal period of affordability, and the net proceeds are insufficient to repay the full HOME loan amount, the shortfall must be repaid to HUD.
The Department may impose additional procedures as necessary to expedite loan assumptions or new loan processing on loans made with CHDO set-aside funds.

Approval of the use of resale controls will be at the sole discretion of the Department. Please see Management Memo 04-01, available at the state HOME website at http://www.hcd.ca.gov/fa/home/mmemo/04-01.pdf for specific federal and state HOME requirements regarding the resale agreements.

D. Owner-Occupied Rehabilitation Activities

Owner-Occupied Rehabilitation activities have no affordability period. However, HOME funds must be provided as loans (except for relocation, lead paint remediation, administration and activity delivery costs). Therefore, the loan must be repaid if the home is no longer occupied by the owner.

XVIII. INCOME ELIGIBILITY

The State HOME Program uses the Part 5 (formerly known as Section 8) definition of low income (24 C.F.R. Part 813), and uses the Part 5 methodology in calculating the income of beneficiaries. **Please study the Income Calculation and Determination Guide for Federal Programs.**

XIX. COMPLIANCE WITH OTHER FEDERAL REQUIREMENTS

All activities funded with HOME funds or HOME Program Income are required to comply with HOME's federal "overlay" requirements found in §92.350 and following of the HOME Final Rule, including, but not limited to, compliance with requirements concerning the NEPA, federal and state prevailing wage, relocation, Equal Opportunity and Fair Housing, Section 504 and the Americans with Disabilities Act, Section 3 (employment of low income persons), OMB Circular A-133 audit, and debarred, suspended or ineligible contractors. Failure to comply with federal overlays could result in significant cost increases to your project, rejection of your HOME application, or loss of points in current or future HOME funding rounds. Below is a brief discussion of overlay issues relevant to the application.

National Environmental Policy Act (NEPA)

Once you submit your HOME Application until issuance of the NEPA Authority to Use Grant Funds (AUGF), the applicant and any participant in the development process must not take any "choice limiting actions".

As a general rule, any action on the site or on behalf of the project by anyone is a choice limiting action if it occurs once you submit the HOME application, and before the Authority to Use Grant funds is issued. "Choice limiting actions" include the execution of any agreements (such as loan documents) for ANY funds (not just HOME funds), the purchase of the site, any construction loan closing (not just the HOME loan), any payment of local fees, or any site work (other than annual weed control) done by anyone.

Note however, that pursuant to NEPA regulations, certain activities are not considered choice limiting actions regardless of when they are carried out. These activities include, but are not limited to, such things as: environmental and other studies; resource identification and the development of plans and strategies; submitting funding applications;, inspections and testing for hazards or defects; purchase of insurance; payment of principal and interest on loans made or obligations guaranteed by HUD; and assistance for improvements that do not alter environmental conditions and are necessary only to control the effects from disasters or imminent threats to public safety. For more information on activities not considered choice limiting actions, see 24 CFR 58.34.

There are four acceptable forms of site control that avoid "choice-limiting" NEPA problems.

First, you may purchase the site or enter into a long-term lease consistent with the UMR requirements, prior to submitting the HOME application.

Second, you may obtain an Option to Purchase conditioned on the Responsible Entity's determination to proceed with, modify, or cancel the project based on the results of a subsequent environmental review, and the receipt of an "Authority to Use Grant Funds" from HCD for State Recipient projects and from HUD for CHDO projects. The cost to secure the site control document must also be a nominal portion of the purchase price. For more details on required and prohibited provisions of agreements consistent with NEPA, see CPD Notice 01-11 and Assistant Secretary Mercedes Marquez' August 26, 2011 memo for more information at http://www.hcd.ca.gov/fa/home/manual/05/Aug_26_2011-guidanceonoptionsandcondtionalcontracts.pdf

Third, you may obtain a Purchase Agreement, Disposition and Development Agreement (DDA), Option to Lease, or Exclusive Right to Negotiate but this agreement must not be conditional on NEPA clearance or any other federal requirement. The general HUD rule is that purchase agreements are acceptable if federal funds have not been contemplated. You are also cautioned to make sure that the Purchase Agreement or DDA is open-ended or is of sufficient duration that it does not need to be extended after the HOME application is submitted. HUD has ruled that if a Purchase Agreement/DDA expires after the HOME application is submitted, and before the Authority to Use Grant Funds is executed, the execution of an extension would be a choice-limiting action (renewal prior to expiration is OK) Also, please ensure that the Purchase Agreement/DDA has other contingencies such as a permanent financing contingency so that the seller cannot legally compel you to purchase the site prior to receiving the AUGF.

Fourth, a conditional purchase contract may also be used for an existing single family home (1 to 4 units) or an existing multifamily residential projects in some limited circumstances even when federal funds have already been contemplated. Please see the August 26, 2011 memo for more information at http://www.hcd.ca.gov/fa/home/manual/05/Aug_26_2011-guidanceonoptionsandcondtionalcontracts.pdf.

For any application proposing a site with current tenants, including both new construction and rental rehabilitation projects, the third option (Purchase Agreements and the other forms listed under this option) may not be used because the General Information (GIN) Notice required by the Uniform Relocation Act makes it clear that the use of federal funds is contemplated.

For all new construction projects and some rehabilitation projects, compliance with NEPA is evidenced by an executed Authority to Use Grant Funds. The AUGF is issued by HUD for CHDO projects, and by the Department for State Recipient projects. For the few rehabilitation projects not requiring an AUGF, State approval of the environmental documentation is still required prior to taking any choice limiting actions. See Chapter V of the HOME Contract Management Manual for a thorough explanation of the NEPA process.

The Department encourages starting the preparation of the NEPA Environmental Assessment (EA) as soon as possible, but no later than receipt of an award letter.

For rental projects, please make sure that the person preparing the Environmental Assessment has a copy of the HOME Project Report, as the report will frequently have conditions requiring additional analysis of environmental impacts.

If there are any questions regarding choice limiting actions, or the level of environmental clearance required of your program or project, contact your HOME Representative prior to taking any action concerning your proposed HOME program or project.

The application must disclose all environmental hazards, and if awarded funding, you must keep the Department fully informed regarding all environmental issues that arise. Failure to do so will be considered a material misrepresentation and will result in a performance point penalty for all members of the development team.

Federal Prevailing Wage Requirements (Davis-Bacon Wage Requirements)

Federal prevailing wages must be paid on projects involving site development, construction, and rehabilitation where there are 12 or more HOME-assisted units. Some projects, regardless of the number of units, are also subject to state prevailing wages.

The HOME applicant and the construction contractor must ensure that the Davis-Bacon Wage Requirements as well as state prevailing wage laws are followed. The Sources and Uses submitted with the HOME application will be examined to ensure that prevailing wage costs have been considered (federal and state, if applicable). CHDOs are required to hire an outside consultant to act as a Labor Standards Coordinator. If the State Recipient does not have the existing staff to enforce federal labor standards, then it is HIGHLY recommended that an outside labor consultant be hired.

In homebuyer self-help projects with 12 or more HOME-assisted units, Davis-Bacon wages may not be triggered if either of the following applies:

- Site development was completed before the application to HOME, the use of HOME funds was not contemplated when the site development was done, and there are no agreements or contracts for more than 11 HOME units. If the use of HOME was contemplated before the site development was completed, Davis-Bacon wages must be paid on the entire project; or

- If the self-help families purchase finished lots and contract individually with the General Contractor for construction of their homes, and there are no other construction contracts or subcontracts that cover more than one unit.

Relocation

Relocation costs must be paid if individuals or businesses will be temporarily or permanently displaced as a result of a HOME-assisted project. Specifically, federal relocation requirements extend back to the "Initiation of Negotiations"(ION). See the HOME Contract Management manual at http://www.hcd.ca.gov/fa/home/manual/07/D01_RelocationChapterText%20Revised4-14-11.doc
for a discussion of relocation notice requirements, and what constitutes the "ION." The determination of the ION requires a case specific analysis. The Department highly recommends consultation with HOME staff to determine the specific date forION. This recommendation applies to all rental and first-time homebuyer projects involving any relocation activities. An accurate determination is critical, because relocation costs may be higher if an earlier "initiation of negotiations" date is necessary. Applications for tenant-occupied properties must have already provided the "GIN" to all tenants by the date of the "ION."

The Sources and Uses submitted with the application must adequately budget for relocation costs. Contact your HOME Representative for guidance in estimating relocation costs. Consistent with federal relocation requirements prohibiting economic displacement, if rents for existing tenants will increase, you must budget for a transition reserve to maintain rents for existing tenants at the higher of 30percent of their income at "ION" or the rent at the time of "ION", not including regular increases in expenses, for as long as they live in the project.

Homebuyer 90-Day Vacancy Rule - Relocation requirements will also be triggered if a first-time homebuyer proposes to purchase a home that has been occupied by a renter in the 90 days preceding the date of the purchase agreement. Exceptions to this rule can be made by HOME management on a case-by-case basis with adequate third-party documentation that the tenant moved for reasons unrelated to the sale of the property, i.e., the tenant is moving for another job.

Normally, relocation will not be triggered for OOR or TBRA programs. However, temporary relocation costs are an eligible HOME grant expense.

Procurement Requirements for State Recipients Using Administrative Subcontractors

Except for procurement of the NEPA consultant, which can be done using the small purchase procurement method (i.e., by use of informal price quotations), State Recipients using Administrative Subcontractors paid with HOME Funds must follow a competitive Request for Qualifications (RFQ) or Request for Proposals (RFP) procurement process to select the Administrative Subcontractor. See the HOME Contract Management Manual at: http://www.hcd.ca.gov/fa/home/manual/04/D01_Procurement_Chapter.doc for information on this procurement process.

XX. <u>STATE RECIPIENT RENTAL PROJECT SET-UP AND LOAN DOCUMENT REQUIREMENTS</u>

Pursuant to federal and State requirements, State Recipients may not close their construction loan, even if required to meet TCAC or CDLAC deadlines, without at least completing a limited project set-up process with the Department. Please plan to submit the set-up package at least 60 days, but preferably 90 days, prior to the desired closing deadline to allow enough time for this process.

State Recipients, using funds made available from this NOFA or from Program Income, will be the lender for rental projects, and therefore, as such, must adequately secure the repayment of HOME funds and compliance with HOME affordability requirements through the use of a promissory note secured by a deed of trust and a regulatory agreement. The deed of trust and the regulatory agreement must be recorded on the project property. If security for repayment of HOME funds is a leasehold, the owner of the fee either must permit recordation of the HOME deed of trust and regulatory agreement on the fee, or the fee owner must enter into a lease rider providing appropriate lender protections to the State Recipient. The lease must also comply with the requirements of UMR section 8316. In addition, if HOME funds will be used for construction, the State Recipient and borrower should execute a development agreement clearly setting forth the terms and conditions of disbursement of HOME funds. The State Recipient is responsible to ensure continued compliance with all HOME requirements, and if the project should ever fail, is responsible to repay the Department all HOME funds.

XXI. <u>STATE RECIPIENT OMB A-133 AUDIT DOCUMENTATION</u>

Local governments that expend in excess of $500,000 in federal funds during the fiscal year are required to submit an OMB A-133 Single Audit Report package to the Federal Clearinghouse and to the California State Controller's Office. The 2010-11 audit package was due by March 31, 2012.

The Department will make its determination on the status of A-133 Audit compliance as of August 17, 2012 by consultation with the California State Controller's Office (SCO). Jurisdictions that are exempt from filing an A-133 Audit because the level of federal funds is below the threshold may also submit with their HOME application a copy of the letter written to SCO notifying them that the jurisdiction is exempt. See http://sco.ca.gov/aud_exempt_entities.html for more information on the required content of this letter.

You may check your jurisdiction's OMB A-133 compliance status at: http://sco.ca.gov/Files-AUD/SingleAud/statusreport.pdf.

Questions regarding compliance with the submittal requirements of OMB A-133 can be directed to Nicole McCay, for program-activity applications at pmccay@hcd.ca.gov, or Ferol Kimble, State Recipient Projects Manager, for project applications, at fkimble@hcd.ca.gov. The Department will only answer the question of whether you are in compliance according to SCO's A-133 Status Report. Technical questions related to why you are deemed not in compliance must be directed to SCO.

XXII. APPLICATION EVALUATION

A. Rating and Ranking

The Department will rate, rank and fund applications based on its review of all eligible activities for which funds are requested in an application. The application must be submitted using the form provided by the Department. The form must contain all information required pursuant to Section 8211(c), (d), and (e).

All scores for projects are subject to the appeal process described in Section III. The reporting scores only for programs is subject to the appeal process also described in Section III.

Note: Each project or combination of program activities will be evaluated and ranked separately.

If at the time the HOME rating and ranking process is underway an application has been submitted for the same project for any other Department financing source and is being evaluated by that program, HOME will count that financing as committed for rating purposes. Please consult with other Department programs regarding when they will count HOME financing as committed. HCD requires there be full disclosure in each HCD application of all pending and proposed applications for other HCD applications for the same project regardless of who is applying for funding (e.g. city, county, developer, sponsor, etc.)

Pursuant to Section 8212 (d) (5) of the State HOME regulations, project applications must receive a minimum score of 930 points to be funded. Applications will be funded in descending order. Applications that qualify for CHDO and rural set-asides will be funded first based on their scores as necessary to meet the minimum set-asides. Once the set-asides have been achieved, all remaining applications will be funded within their respective allocations pursuant to 8212.1 based on their scores relative to all other applications with the highest scoring application funded first.

In the case of a tie score, the application demonstrating the highest jurisdictional poverty level will be funded first. Final funding decisions will be made by the Division of Financial Assistance Deputy Director. The decision of the Deputy Director is final.

B. Minimum Requirements**:** Applications for the HOME Program are not considered for funding unless the application demonstrates that the following minimum requirements have been met pursuant to Section 8212 of the HOME regulations:

1. The application was received by the deadline specified in this NOFA;

2. The applicant is eligible pursuant to Sections 8204, 8204.1(c) and Appendix A of the NOFA;

3. The applicant proposes at least one eligible activity pursuant to Section 8205 (other than administration);

4 The use of funds is eligible per Sections 8205 and 8210(c);

5. The application is complete pursuant to Section 8211(b);

6. The applicant has no unresolved audit findings pursuant to Section 8204(a) (1) (D) (ii) and (2) (C) (i);

7. The applicant has provided documentation satisfactory to the Department that it is in compliance with the submittal requirements of OMB A-133, Single Audit Act pursuant to Sections 8204(a)(1)(D)(iv) and (2)(C)(iii). see Section XXI of the NOFA for more information;

8. The applicant and any member of its program or project team is not on the list of debarred Contractors at https://www.epls.gov pursuant to Sections 8204 (a) (1) (D) (iii) and (2) (C) (ii);

9. The total amount of funds requested for both administration and activity-specific costs does not exceed the limits identified in the NOFA;

10. The application form provided by the Department has not been altered or modified except to accommodate computer software; and

11. CHDO applications must contain procedures for ensuring effective project control pursuant to 24 CR 92.300(a) (1) and State HOME Regulation 8204 (a) (2) (D).

In addition, project applications must demonstrate:

1. The project is financially feasible. Pursuant to Section 8212(a) (6) of the State HOME regulations, the Department must determine the project is financially feasible to consider it for funding. Site development issues, local government approvals, development costs, project timing, project market, and other development factors will be evaluated in order to make this determination. Projects may not be deemed feasible if information

presented in the application results in unknown or uncertain project costs and/or timelines; therefore, the Sources and Uses form must contain line items for any project costs related to determining the feasibility of the project, including but not limited to, prevailing wages, environmental remediation (including mitigation of any Recognized Environmental Conditions and other environmental hazards) elevation above a flood plain, and relocation. Applicants proposing projects on sites that were formerly orchards and/or vineyards may be required to submit an analysis of soil testing for pesticides remaining in the soil. If your proposed project site borders a railroad, whether currently operating or abandoned, the Department may require soils testing for metals, including but not limited to arsenic (arsenic has been commonly used along railroad lines for weed control). It is recommended this testing be performed prior to submitting the HOME application so the applicant can determine whether pesticide or arsenic remediation is required and include the cost for such remediation in the development budget.

2. The project has site control pursuant to Section 8303 of the Uniform Multifamily Regulations. (Note: Projects must also meet HUD requirements regarding acceptable forms of site control,see Section XIX of the NOFA for more information).

3. There is no pending litigation that could affect implementation of the project as proposed; and

4. For rental projects, that the project either complies with or is exempt from Article XXXIV of the California Constitution pursuant to 8212(a) (7), see Section XIV of the NOFA for more information on Article XXXIV.

C. Rental and FTHB Project Application Rating Factors:

Activity	**Maximum Points Available**
Rental New Construction*	**1550**
Rental Rehabilitation*	**1550**
First-Time Homebuyer Projects	**1400**

*Please see the HOME Supplement for detailed self-scoring checklists for the Rental New Construction and Rental Rehabilitation applications.

Detailed Rental New Construction and Rental Rehabilitation scoring is shown in the following table:

Factor	Sub-factor (if any)	Points
Housing Element: The local public entity's adopted housing element is in substantive compliance with State Housing Element Law as of August 17, 2012, the application due date, as defined at Section 8201(s) of the state HOME regulations. Newly formed cities not required to be in compliance and CHDOs shall receive full points in this category. See Management Memo 10-02 for more information.		50
Direct HOME Allocation Declined: Activities proposed within a jurisdiction eligible for a direct HOME allocation from the U.S. Department of Housing and Urban Development (HUD) wherein the jurisdiction declined the allocation to preserve eligibility for this NOFA.		50
Activities proposed in a rural community.		50
Prior applicant experience in the implementation of local, state or federal affordable housing or community development projects in the last seven years (calendar years 2005 – 2011 and 2012 until the application deadline).		50
Prior development team experience in developing the same type of subsidized project as proposed in the application in the last five years (calendar years 2007 – 2011 and 2012 until the application deadline).		200
Prior performance of the applicant, developer, owner, and managing general partner (if the project has one) in all HOME project contracts (rental and FTHB) which were awarded between June 1, 2007 – May 31, 2012.	**Performance Factor #1**: Missed project deadlines of the applicant, developer, owner, and managing general partner, for deadlines occurring by the HOME application deadline of August 17, 2012. Points will be deducted for missed deadlines as follows: 5 points for the Permanent Financing deadline, 10 points for the Project Set-up deadline, 10 points for the Construction Loan Closing Deadline, 80 points for the Completion Deadline, and 20 points for the Expenditure Deadline. See Note 1 for possible credits.	Maximum deduction of 200 points
	Performance Factor #2: Late reports of the applicant. Up to 50 points may be deducted for late monthly reports, late Quarterly Program Income reports due for both program and project contracts between June 1, 2011 – May 31, 2012, late Project Completion Reports due during this time period, and for the Annual Performance Report due in 2012.	Maximum deduction of 50 points
	Performance Factor #3: Up to 200 points will be deducted if applicants, developers, owners, and managing general partners, between June 1, 2007 – May 31, 2012, have made a material misrepresentation of any requirement or fact in an application, project report or	Maximum deduction of 200 points

Factor	Sub-factor (if any)	Points
	other document submitted to the Department including but not limited to that which jeopardizes the Department's investment in a project or places the Department at risk of a monitoring finding. The Department will notify the relevant party of the proposed penalty by June 15, 2012 – this notification will also allow an appeal to be submitted.	
	Performance Factor #4: Noncompliance with monitoring requirements identified in the last five years (i.e. June 1, 2007 – May 31, 2012). There are two distinct sub-categories: First, applicants, owners, and managing general partners who have not complied with monitoring requirements identified by the Department in the last five years will lose up to 100 points. The Department will notify the relevant party of the proposed penalty by June 15, 2012 – this notification will also allow an appeal to be submitted. Second, points will also be deducted for the following late reports associated with occupied HOME rental projects (the Department will calculate these deductions only for applicants, owners, and managing general partners involved in 2012 project applications so advance notice will not be provided on the status of these reports). State Recipients • 10 points will be deducted for each late Annual Monitoring Report due to the Department June 1, 2011 – May 31, 2012 CHDOs • 5 points will be deducted for each late Annual Operating Budget and each late Annual Report due to the Department June 1, 2011 – May 31, 2012.	Maximum deduction of 100 points
All Applicants start with 200 points. Performance Points noted immediately above are **deductions** from these points. The maximum point deduction for Performance is 200 points.		200
Community Need: see Appendix H of this NOFA for Community Need point scoring by activity type**.** (Located on the HOME NOFA webpage underneath the NOFA)		**250**

Factor	Sub-factor (if any)	Points
Project Feasibility	**Compliance with State and Federal Requirements (including UMRs for rental projects)**	**195**
	Highest percentage of HOME-assisted units	**5**
Project Readiness	For detailed Project Readiness factors for rental projects, please see the HOME Supplement. For homebuyer projects, please see p. 12 of the Homebuyer Project Application (Part B). Rating points for Project Development Plan items will be assigned if the item has been submitted, was prepared within the applicable timeframes, and meets basic requirements as specified in the HOME Supplement. The content of the items will be reviewed to make a feasibility determination for the applications scoring highly enough to be funded.	300
State Objectives (no more 200 points total) Rental Projects Only (except for "Overcoming Impediments to Fair Housing" and "Catalyst Projects", which are FTHB Project State Objective rating factors also).	**Deeper Affordability: up to 50 points will be awarded based on the percentage of total bedrooms in all units (HOME and non-HOME) restricted to households with incomes at 50% AMI or less per the Excel worksheet provided with the HOME Application.** **Use the "Deeper Affordability" Excel file to calculate your score for this rating factor**	50
	100% Percent Financing Committed or Noncompetitive: 70 points will be awarded for projects that have 100 percent of their non-State HOME permanent financing committed by August 17, 2012. **Projects proposing 4% tax credits qualify for these points if all commitments other than tax-exempt bonds, 4% tax credit proceeds, and AHP are in place.**	70
	Overcoming Impediments to Fair Housing. 25 points will be awarded to rental and first-time homebuyer projects proposed in census tracts where total minorities are not overrepresented by more than 10 percentage points compared to the percentage of total minorities in the county.	25
	Requesting less funding than the maximum application limit. Each reduction of 2% of the application maximum amount will receive one (1) point in this category. For example, a rental new	25

Factor	Sub-factor (if any)	Points
State Objectives (continued)	**construction project requesting $1.6 Million for a 9% tax credit project will receive 10 points ($400,000/$2 million = 20%/2%= 10 points).**	
	Capacity Building Points: 25 points will be awarded to applications for the same project that was the subject of unsuccessful applicants in both the 2010 and 2011 HOME competitions.	25
	Special Needs Populations: Up to 50 points will be awarded to rental projects that are proposing to target special needs populations, including farmworkers, through the use of any of the following financing sources: HUD 202, HUD 811, HUD Supportive Housing Program, State Mental Health Services Act (MHSA), USDA Farm Labor, HCD Serna or MHP funds OR to projects which provide project-based rental assistance under the terms of an MHSA or **Veterans Affairs Supportive Housing Voucher (HUD-VASH)** contract. See State Objectives Table 1. **If the identified Special Needs funding is not committed at the time of the application, the commitment must be obtained at the first available funding opportunity. Failure to obtain this commitment will result in automatic disencumbrance of the HOME award.**	50
Catalyst Projects	**For rental and FTHB project applications, projects located within the boundaries of a Gold, Silver or Bronze Catalyst Project as designated by HCD. A listing of designated catalyst projects is available at:** http://www.hcd.ca.gov/hpd/catayst_summaries082510.pdf.	**25**
TOTAL POINTS RENTAL PROJECTS		**1550**

Note 1 regarding **Performance Factor #1**

A. Credit for good performance on the same project with missed deadlines

The deducted points for each specific project will be restored if all of the following events have occurred by the application due date for the same project:

- the project has been completed, i.e. the Notice of Completion has been filed in the Recorder's Office
- the Project Completion Report, showing that all HOME units are occupied, has been received by the Department, and
- all HOME funds were expended by the original expenditure deadline in the Standard Agreement.

B. **Credit for other completed HOME projects**

Further, points will be partially restored to the extent there are other completed HOME projects involving the applicant, developer, owner, or managing general partner, awarded between June 1, 2007 – May 31, 2012. Points will be restored at the rate of 5 points for each completed HOME project which was awarded HOME funds between June 1, 2007 – May 31, 2012.

For example:

One of a developer's three HOME projects awarded in this timeframe missed the Completion Deadline, resulting in a 80 point deduction.

Two projects awarded HOME funds between June 1, 2007 and May 31, 2012 have been completed.

The 80 point deduction is offset by 10 points (2 projects X 5 points).

C. Special Rules

- Pursuant to Section 8217, Applicants who disencumbered a project contract between June 1, 2007 – May 31, 2012 and their developers, owners, and managing general partners, (if any), for these projects will still receive point deductions according to the above schedule for the deadlines the project did not meet before the contract was disencumbered.

- Point Deductions for Projects Subject to the Hold-Out Penalty (State HOME Regulation 8217(b) (3)). Certain applicants that have not received a waiver of the holdout penalty pursuant to Section 8217 (c) may now be eligible to apply because the project in question meets a specific performance standard identified in the State Regulations. This requirement is the project has been completed, occupied, all funds have been expended, and all necessary HOME funds have been drawn pursuant to Section 8217 (b) (3) (A). These applicants are still subject to a performance penalty of up to 50 points on their next HOME application following the holdout penalty, along with the project's developer, owner, and managing general partner pursuant to 8217 (b) (3) (B).

State Objectives Table 1 (Special Needs Populations)

% of Units Designated by the Funding Source as Special Needs Units	Point Score
100%	50
99%-70%	40
69%-50%	30
49%-30%	20
29% or less	10

<u>Program Activity Rating Factors</u> (Total Points Available = 850)

Factor	Sub-factor (if any)	Points
Housing Element: The local public entity's adopted housing element is in substantive compliance with State Housing Element Law as of August 17, 2012, the application due date, as defined at Section 8201(s) of the state HOME regulations. Newly formed cities not required to be in compliance and CHDOs shall receive full points in this category. See Management Memo 10-02 for more information.		50
Direct HOME Allocation Declined: Activities proposed within a jurisdiction eligible for a direct HOME allocation from the U.S. Department of Housing and Urban Development (HUD) wherein the jurisdiction declined the allocation to preserve eligibility for this NOFA.		50
Activities proposed in a rural community.		50
Prior experience of the applicant in administering HOME and/or other local, state or federal affordable housing or community development programs in the last seven years (calendar years 2005 – 2011 and 2012 until the application deadline).		100
Prior performance of the applicant	**Performance Factor #1:** Up to 50 points will be deducted for late or missing reports. In assigning these points, the Department will review the applicant's history of submitting quarterly reports and quarterly program income reports (for both Program Activity and Project contracts numbered 09-HOME through 11-HOME), and Annual Performance reports for FY 09-10, 10-11, and 11-12	Maximum deduction of 50 points
	Performance Factor #2: Up to 100 points	Maximum

Factor	Sub-factor (if any)	Points
	will be deducted for noncompliance with monitoring or contract requirements identified in the last five years (i.e. June 1, 2007 – May 31, 2012).	deduction of 100 points
Note: All Applicants start with 150 points; Performance Points are **deductions** from the two factors above. The maximum point deduction for Performance is 150 points.		150
Community Need: see Appendix H of this NOFA for Community Need point scoring by activity type**.** (Located on the HOME NOFA webpage underneath the NOFA)		**250**
Project Feasibility	Activity-specific criterion as specified: • FTHB programs: number of units that have sold in the city or county over the preceding 12-month period and are affordable to lower income families, given the proposed HOME assistance. • Owner-Occupied Rehabilitation programs: number of overcrowded households by tenure and the age of the housing stock by tenure, in the city or county as reflected in U.S. Census data. • TBRA Programs: overpayment by renter households as reflected in U.S. Census data.	75
	Extent Program Guideline reflect federal and state requirements.	25
State Objectives (100 points total) – Program Capacity and Continuity	100 points will be awarded to jurisdictions that applied for but did not receive HOME program activity funding in 2011 if the Department determines that the application was eligible, but that the application could not be funded because the score was below the funding cut-off. The jurisdiction is not required to apply for the same activity(s) in 2012 that was applied for in 2011.	100
TOTAL POINTS FOR PROGRAMS		850

2012 HOME Program and Project NOFA Application Workshops

Applicants for HOME Funds are strongly encouraged to attend the applicable workshops to gain information critical for preparing a competitive application, which will be discussed at the workshops. Please follow the registration process outlined below if you are planning to attend.

To register for the Workshops, please click this link: Registration Form then complete and submit the electronic RSVP form. If you have questions regarding any of these workshops, please contact the general HOME Program number (916-322-0356) or your HOME Representative.

Rental Project Workshop

This workshop will cover Rental New Construction and Rental Rehabilitation, with or without Acquisition, Projects only.

June 14, 2012 9:00 AM –4:00 PM Rancho Cordova City Hall 2729 Prospect Park Drive Rancho Cordova, CA 95670 American River Room North

Applicants interested in submitting a First-Time Homebuyer project application will receive NOFA training by conference call; please contact the HOME program to request this training (916-322-0356).

Program Activity Workshops

These workshops will cover First-Time Homebuyer, Tenant-Based Rental Assistance, and Owner-Occupied Rehabilitation Program Activities. Note: the Rental Acquisition and/or Rehabilitation Program will not be an eligible activity this year.

Date/Time	Location
Tuesday **June 12, 2012** 10:00 AM – 4:00 PM	Fairfield Fairfield Community Center 1000 Kentucky Street Fairfield, CA 94533
Wednesday **June 13, 2012** 10:00 AM - 4:00 PM	Clovis Clovis City Council Chambers– 1033 Fifth Street Clovis, CA 93612
Wednesday **June 20, 2012** 10:00 AM - 4:00 PM	Ukiah County of Mendocino Administration Building 860 North Bush Street, Conference Room C Ukiah, CA 95482
Wednesday	Coachella Coachella Corporate Yard

June 27, 2012 10:00 AM - 4:00 PM	53-462 Enterprise Way Coachella, CA 92236
Thursday **June 28, 2012** 10:00 AM - 400 PM	Gardena Gardena Municipal Transportation Operations Building – Main Community Room 13999 S. Western Avenue Gardena, CA 90247